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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,387	11/16/2000	Kennon R. Copeland	A33436(065855.0121)	9510
21003	7590	05/01/2006	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112			BOYCE, ANDRE D	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/714,387

Applicant(s)

COPELAND, KENNON R.

Examiner

Andre Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Final Office action is in response to Applicant's amendment filed January 23, 2006. Claims 1, 7, and 17 have been amended. Claims 1-19 are pending.
2. Applicant's arguments filed January 23, 2006 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-4, 6-10, 12, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (USPN 6,032,125), in view of Landvater (USPN 6,609,101).

As per claim 1, Ando discloses a method for estimating sales volume of an item (forecast model 6, figure 1) comprising: collecting sampled sales data for a reference period (13 month sales results, column 4, lines 34-36); receiving sampling sales data in a central processor (i.e., product master F1, figure 1); estimating total sales volume for the reference period (monthly forecast file F5, column 4, lines 59-61); parsing the reference period into a plurality of sub-periods (forecast result file F2, forecasting value of each week, column 4, lines 39-42), collecting sampled sales data for a current sub-period of interest (i.e., current week), the current sub-period of interest being later in time than the reference period (final forecasting result based

on data of the current week, column 5, lines 35-38); matching the current sub-period to a corresponding sub-period from said plurality of sub-periods (last 18 weeks); calculating a sub-period specific projection factor for the corresponding sub-period (pattern outputting the forecasting value S13, column 5, lines 45-47); and applying said projection factor to said sales data from the current sub-period of interest to determine an estimate of total sales for the current sub-period (closest pattern is extracted and used to obtain the final forecasting result, column 5, lines 39-47). Ando does not explicitly disclose collection of sampled sales data being later in time than the reference period. Landvater discloses the POS system 90 used to collect sales data to provide a sales history for use in creating a statistical forecast of projected sales and to update the perpetual inventory, thus providing daily collection and reporting of sales data later in time, to use in product forecasting (column 8, lines 13-21). Both Ando and Landvater are concerned with effective sales forecasting, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include collection of data being later in time than the reference period in Ando, as seen in Landvater, as an additional effective determination of sales forecasting, making the Ando system more robust.

As per claim 2, Ando discloses the sub-periods are days of the week (frequency of forecasting may be daily, column 4, lines 26-29).

As per claim 3, Ando discloses the reference period is one-week (forecast result file F2).

As per claim 4, Ando discloses the current sub-period is a certain day of the week, the sub-periods of the reference period are days of the week and wherein the corresponding sub-period is the day of the week matching the certain day (daily forecasting result reflected in weekly forecasting, wherein the pattern from each day is compared to the same day of the previous week, as seen in Figure 2, which uses weeks instead of days, column 7, lines 41-45).

As per claim 6, Ando discloses the sample size for the reference period is larger than the sample size for the current sub-period of interest (sample size of the first 14 weeks versus the entire 18 week period, column 5, lines 56-59).

As per claim 7, Ando discloses a method of estimating daily sales volume (frequency of forecasting may be daily, column 4, lines 26-29) comprising: calculating in a central processor (i.e., forecast engine 7, figure 1) a day of the week specific projection factor based on reference sales history data (final forecasting result pattern S13, figure 3); sampling sales data for a current day of interest (i.e., current day, wherein final forecasting result based on data of the current day, column 5, lines 35-38); storing said sampled sales data in a data storage device (i.e., product master F1, figure 1); scaling at least a portion of the sampled sales data for the current day of interest by the day of the week specific projection factor by a computer program at least partially controlling said central processor (i.e., forecast engine 7, figure 1) to determine an estimate of daily sales volume for the current day of interest (i.e., the pattern outputting the forecasting value closest to the actual sales results is extracted and obtained as the pattern of comparison, column

5, lines 34-38). Ando does not explicitly disclose said sampling of sales data occurring at an offset in time from the reference sales history data. Landvater discloses the POS system 90 used to collect sales data to provide a sales history for use in creating a statistical forecast of projected sales and to update the perpetual inventory, thus providing daily collection and reporting of sales data later in time, to use in product forecasting (column 8, lines 13-21). Both Ando and Landvater are concerned with effective sales forecasting, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include sampling occurring at an offset in time in Ando, as seen in Landvater, as an additional effective determination of sales forecasting, making the Ando system more robust.

As per claim 8, Ando discloses the reference sales history data includes sampled sales data for a reference week prior to the day of interest (daily forecasting would include data from last 18 weeks/day).

As per claim 9, Ando discloses the step of calculating the day of the week specific projection factor includes generating daily estimated sales volume for at least one day in the reference week (multiple patterns are calculated based upon the day of the week, see figures 2A-C as reference).

As per claim 10, Ando discloses the at least a portion of sampled sales data for the day of interest is the sampled data from those sources which have also provided data for the reference week (data from point-of-sales system at retail shop, column 4, lines 34-38).

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As per claim 12, Ando discloses a method for estimating daily sales volume of an item (frequency of forecasting may be daily, column 4, lines 26-29) comprising: collecting sampled sales data from a first plurality of sources for a current day of interest (product master F1, collecting results from a retail shop, column 4, lines 34-38); receiving said sampled sales data in a central processor (i.e., product master F1, figure 1); estimating total sales volume for the reference week (demand forecasting for every week) by a computer program at least partially controlling said central processor (i.e., forecast engine 7, figure 1); parsing the sampled sales data and estimated total sales volume for the reference week by day of the week (daily forecasting result reflected in weekly forecasting, wherein the pattern from each day is compared to the same day of the previous week, as seen in Figure 2, which uses weeks instead of days, column 7, lines 41-45); selecting the parsed sales data and estimated total sales volume data for the day of the week in the reference week that matches the day of the week of the current day of interest (i.e., current day, wherein final forecasting result based on data of the current day, column 5, lines 35-38); calculating a day of the week specific projection factor for the current day of interest (most frequently appeared pattern in the past 18 weeks/days is used for forecasting the future 18 weeks/days, column 5, lines 48-55); and applying said projection factor to said sales data for the current day of interest to determine an estimate of total sales for the day of interest (closest pattern is extracted and used to obtain the final forecasting result, column 5, lines 39-47).

Ando does not explicitly disclose collecting sampled sales data for a reference week, said reference week being offset in time from said current day by a predetermined time period and collecting sampled sales data for a reference week from a second plurality of sources. Landvater discloses the POS system 90 used to collect sales data to provide a sales history for use in creating a statistical forecast of projected sales and to update the perpetual inventory, thus providing daily collection and reporting of sales data later in time, to use in product forecasting (column 8, lines 13-21). Further, Landvater discloses having one or more retail stores 23, where the POS information is collected (column 6, lines 46-49). Both Ando and Landvater are concerned with effective sales forecasting, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include sampled sales data for a reference week, said reference week being offset in time from said current day, and collecting sampled sales data from a plurality of sources in Ando, as seen in Landvater, thereby collecting data from multiple retail shops, making the Ando system more robust.

As per claim 13, Ando discloses the quantity of sampled sales data for the current day of interest is smaller than the quantity of sampled sales data for the corresponding day of the week in the reference week (sample size of the first 14 weeks versus the entire 18 week period, column 5, lines 56-59).

Claim 17 is rejected based upon the rejections of claim 1, since it is the system claim corresponding to the method claim.



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5. Claims 5, 11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (USPN 6,032,125), in view of Landvater (USPN 6,609,101), as applied to claims 4, 10, and 17, in further view of Felthauser et al (USPN 5,420,786).

As per claim 5, neither Ando nor Landvater disclose the item being a pharmaceutical product. Felthauser et al discloses product sales at pharmacies estimated (column 5, lines 59-61). Ando, Landvater, and Felthauser are concerned with effective product sales estimation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a pharmaceutical product in the Ando system, as seen in Felthauser, thus making the Ando system more flexible and robust.

As per claim 11, neither Ando nor Landvater disclose the sources are retail pharmacies. Felthauser et al discloses product sales at pharmacies estimated (column 5, lines 59-61). Ando, Landvater, and Felthauser are concerned with effective product sales estimation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a pharmaceutical product in the Ando system, as seen in Felthauser, thus making the Ando system more flexible and robust.

As per claim 19, neither Ando nor Landvater disclose the sales data relates to pharmaceutical sales. Felthauser et al discloses product sales at pharmacies estimated (column 5, lines 59-61). Both Ando and Felthauser are concerned with effective product sales estimation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a

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pharmaceutical product in the Ando system, as seen in Felthausen, thus making the Ando system more flexible and robust.

6. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (USPN 6,032,125), in view of Landvater (USPN 6,609,101), as applied to claims 12 and 17, in further view of Takahashi (USPN 6,021,394).

As per claim 14, neither Ando nor Landvater disclose comparing said first plurality of sources to said second plurality of sources to determine the intersection of said sources and wherein the step of determining the day of the week specific projection factor applies sample data from said intersection of sources. Takahashi discloses comparing sales results of a plurality of vending machines in order to determine product sales estimates (column 5, lines 2-7). Ando, Landvater, and Takahashi are concerned with product forecasting, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to determine the intersection of said sources in the Ando system, as seen in Takahashi, making the Ando system more robust, by collecting and mining data from multiple retail shops that sell the same products, thereby determining more accurate forecasts.

Claim 18 is rejected based upon the rejection of claim 14, since it is the system claim corresponding to the method claim.

7. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (USPN 6,032,125), in view of Landvater (USPN 6,609,101), in further view of Takahashi (USPN 6,021,394), as applied to claim 14, in further view of Felthauser et al (USPN 5,420,786).

As per claim 15, neither Ando, Landvater, nor Takahashi disclose the sources are retail pharmacies. Felthauser et al discloses product sales at pharmacies estimated (column 5, lines 59-61). Ando Landvater, Takahashi, and Felthauser are concerned with effective product sales estimation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a pharmaceutical product in the Ando system, as seen in Felthauser, thus making the Ando system more flexible and robust.

As per claim 16, neither Ando, Landvater, nor Takahashi disclose the item being a pharmaceutical product. Felthauser et al discloses product sales at pharmacies estimated (column 5, lines 59-61). Ando, Landvater, Takahashi, and Felthauser are concerned with effective product sales estimation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a pharmaceutical product in the Ando system, as seen in Felthauser, thus making the Ando system more flexible and robust.

### ***Response to Arguments***

8. In the Remarks, Applicant argues, with respect to claims 1 and 17, that Ando does not disclose or suggest the collection of sampled sales data for two time

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periods, including a reference period and a sub-period of interest later in time than the reference period and that Landvater neither discloses nor suggests sampling sales data for a time period later than a reference period in order to provide an estimate of total sales for the time period. The Examiner respectfully disagrees. First, Ando discloses storing sales results for a 13-month period (i.e., reference period) and obtaining the weeks numbers of the last 18 weeks used in selection of a pattern (i.e., a sub period of interest), thus indeed disclosing a reference period and a sub-period of interest later in time than the reference period. In addition, Landvater discloses the POS system 90 used to *collect sales data* to provide a *sales history* for use in creating a statistical forecast of projected sales (column 8, lines 13-21), thereby indeed disclosing, contrary to Applicant's assertion, sampling sales data for a time period later than a reference period in order to provide an estimate of total sales for the time period.

With respect to claims 7 and 12, Applicant argues that Ando does not disclose sampling occurring at an offset in time from the reference sales history data and that Landvater neither discloses nor suggests sampling of sales data occurring at an offset in time from the references sales history data. The Examiner respectfully disagrees. First, Ando discloses storing sales results for a 13-month period and obtaining the weeks numbers of the last 18 weeks used in selection of a pattern, wherein the sampling indeed occurring at an offset in time from the reference sales history data (i.e., 13-month period). In addition, Landvater discloses the POS system 90 used to *collect sales data* to provide a *sales history* for use in creating a

statistical forecast of projected sales and updating the perpetual inventory system (column 8, lines 13-21), wherein updating of the inventory system, via the POS system, necessarily includes sampling of sales data occurring at an offset in time, since the data from the POS system is collected on a daily basis.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

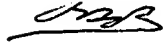
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

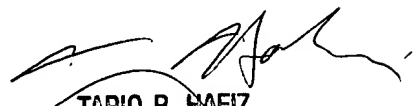
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
adb  
April 24, 2006

  
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